

Montana's Veterans and the Americans with Disabilities Act



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So, what does this have to do with me?

- **Discrimination is illegal**
- **Aging population**
- **We owe it to our veterans and their families**
- **Montana's veterans and veterans with disabilities are our friends, neighbors, employees, and customers**



Montana's Veterans

- **Active Duty - roughly 3,700**
- **National Guard and Reserve – roughly 3000**
- **Veterans in MT - VA State Summary, November 2010**
 - ✓ 102, 986 statewide
 - ✓ 526 participants in VA vocational rehabilitation
 - ✓ 17,026 receiving monthly disability compensation
 - ✓ 1,609 VA pensions
 - ✓ 4,259 disability compensation claims processed
- **Montanan ranks #17 for enlistment rates (per capita)**



Laws Protecting Veterans

- There are several of laws that protect veterans from discrimination:
- ✓ Uniformed Services Employment and Reemployment Rights Act
 - ✓ Servicemembers Civil Relief Act, formerly known as the Soldiers' and Sailors' Civil Relief Act
 - ✓ Uniformed and Overseas Citizens Absentee Voting Act
 - ✓ Americans with Disabilities Act
 - ✓ Family Medical Leave Act



Americans with Disabilities Act of 1990

- Provides a clear and comprehensive national mandate to eliminate discrimination against individuals with disabilities.



Titles Under the ADA

Title I - Employment



Title II - Public Services



Title III - Public Accommodations



Title IV Telecommunications



Title V - Miscellaneous

Definition of a “Disability”

- A physical or mental impairment that substantially limits one or more major life activities;
- a record of such an impairment; or
- being regarded as having such an impairment.



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Title I of the ADA

- It is illegal to discriminate against a qualified individual with a disability in any aspect of employment
- A qualified individual with a disability is a person who:
 - ✓ meets the requisite skill, experience, education, or other requirements of the job and
 - ✓ can perform the essential functions of the job with or without a reasonable accommodation.

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Service Connected vs. ADA Protected

- Department of Veterans Affairs regulations and ADA regulations use different standards for determining “disability” status
- Service connected, in itself, does not mean the veteran is protected under the ADA
- The higher a veteran’s disability rating, the higher the probability is that the veteran is protected under the ADA
- [EEOC Guidance: Veterans and the Americans with Disabilities Act - A Guide for Employers](#)

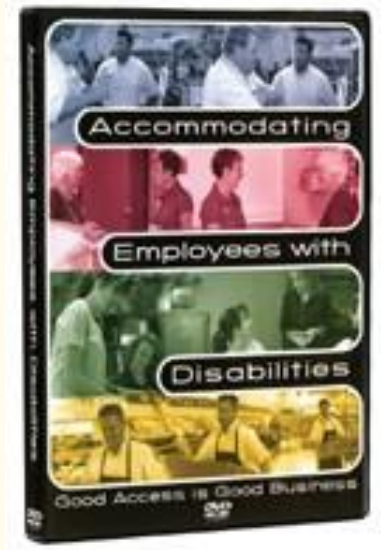
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Protected or Not?

- **A veteran who applied for a job as a salesperson was denied the position because of concerns about how customers may react to facial scares sustained in Iraq**
- **A veteran, who recently separated with a 10% disability rating for tendinitis caused by a sprained wrist**
- **A veteran who requested time off for counseling related to PTSD was terminated by his employer**
- **A veteran who applied for a promotion to information technology supervisor was denied the position because of his past history of alcohol abuse**

Reasonable Accommodations

- Employers must provide reasonable accommodations unless it would create an undue hardship
- Logical adjustment to the job or work environment
- Reasonable accommodations:
 - enable qualified individuals with a disabilities to perform the essential functions of the job;
 - enable employees with a disabilities to enjoy benefits and privileges of employment; and
 - promote equal opportunity during the employment process



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Types of Accommodations

- **Making existing facilities readily accessible**
- **Job restructuring**
- **Part-time or modified work schedules**
- **Acquiring or modifying equipment**
- **Modifying exams, training materials, or policies**
- **Providing qualified readers or interpreters**
- **Reassignment to a vacant position**



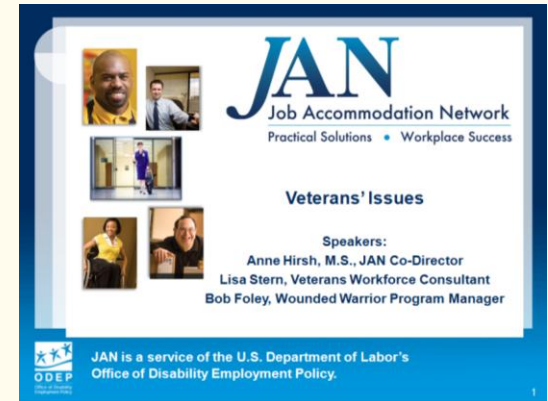
Job Accommodation Network Interactive Process Training

- Provides information for effectively managing workplace accommodations, practical aspects you need to know about workplace accommodations, and making sound accommodation decisions.
- ✓ [View Interactive Process Module](#) – Length: 23 minutes
- ✓ [Download accessible transcript](#)
- ✓ [Download accessible corresponding handout from JAN's Effective Accommodation Practices Series](#)



Job Accommodation Network Webcast – Veterans Issues

- [View this Webcast](#), Length: 1 hour
- ✓ [Download Transcript](#)
- **Handouts:**
 - ✓ [PowerPoint Presentation](#)
 - ✓ **Hiring Veterans: A Step-by-Step Toolkit** ([.doc](#)) & ([.pdf](#))



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Undue Hardship

- **Significant difficulty or expense**
- **Focuses on resources and circumstances in relationship to the cost or difficulty of providing the accommodation**
- **Unduly extensive, substantial, or disruptive, or would fundamentally alter the nature or operations**

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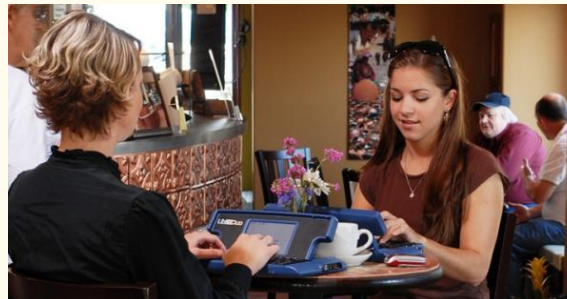
Title II of the ADA

➤ Public entities must...

- ✓ not exclude people with disabilities from programs, services, or activities;
- ✓ ensure programs, services, and activities are accessible to people with disabilities;
- ✓ not set eligibility criteria that screen out people with disabilities, unless needed to provide the service or activity;
- ✓ make reasonable modifications to policies, practices, and procedures that deny equal access;

Equally Effective Communication

- Under Title II of the ADA, public entities must:
 - ✓ furnish auxiliary aides and services when needed for equally effective communication; and
 - ✓ not charge special fees to people with disabilities for providing auxiliary aids or services.



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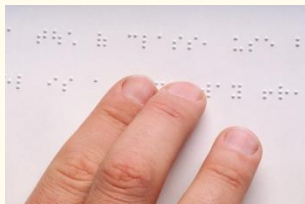
Auxiliary Aids & Services

- **Devices or services that enable effective communication for people with disabilities**
- **Cannot charge special fees for providing auxiliary aids or services**
- **Type may vary by:**
 - ✓ **method of communication used by the individual;**
 - ✓ **nature, length, and complexity of the communication involved; and**
 - ✓ **context of the communication.**
- **Must provide auxiliary aids and services in:**
 - ✓ **accessible formats;**
 - ✓ **a timely manner; and**
 - ✓ **such a way as to protect the privacy and independence of individuals with disabilities.**

Common Requests



- Qualified interpreters and readers
- Computer-aided real-time transcription (CART)
- Assistive listening systems
- Written materials
- Materials in Braille, large print, or electronic format
- Note takers
- Taped texts
- Description of visually presented materials
- Computer terminals
- Screen readers
- Open or closed captioning
- Video interpreting services
- Assistance filling out forms
- Audio recordings



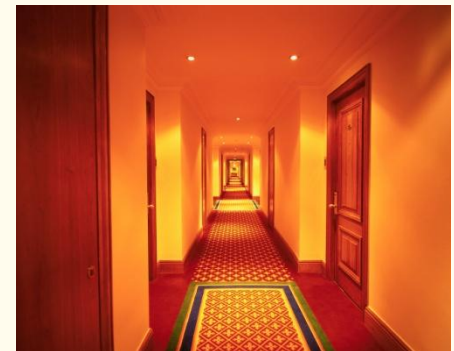
Title III of the ADA

- Covers public accommodations, commercial facilities, some examinations/courses, and transportation
- Twelve categories of public accommodations
- Nonprofits are included
- Enforced by the U.S. Department of Justice



Title III of the ADA

- In existing facilities – remove the readily achievable physical barriers
- All new facilities must meet 2010 ADA Standards for Accessible Design
- Undue Burden
- Includes a requirement for effective communication similar to Title II



Disability-Related Resources

- Equal Employment Opportunity Commission, www.eeoc.gov
- U.S. Department of Justice, www.ada.gov
- U.S. Access Board, www.access-board.gov
- Montana Human Rights Bureau, <http://erd.dli.mt.gov/human-rights-bureau.html>
- Job Accommodation Network, <http://askjan.org/index.html>
- Rocky Mountain ADA Center, <http://www.adainformation.org/>
- National Network of ADA Centers, <http://adata.org/Static/Home.html>
- AskEarn.org <http://askearn.org/index.cfm>
- Office of Disability Employment Policy, <http://www.dol.gov/odep/index.htm>
- Disability.gov, <https://www.disability.gov/>
- National Alliance on Mental Illness, http://www.nami.org/Template.cfm?Section=your_local_nami&Template=/CustomSource/AffiliateFinder.cfm&State=MT



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Specific to Veterans

- U.S. Department of Justice,
http://www.justice.gov/crt/spec_topics/military/
- National Resource Directory,
<https://www.nationalresourcedirectory.gov/employment>
- Veterans and the ADA: A Guide for Employers,
http://www.eeoc.gov/eeoc/publications/ada_veterans_employers.cfm
- AskEarn.org Veterans with Disabilities in the Workplace
<http://askearn.org/keyword-links.cfm?KeywordID=381>
- Employers Support of the Guard and Reserve,
<http://www.esgr.org/site/>
- America's Heroes at Work
<http://www.americasheroesatwork.gov/forEmployers/HiringToolkit>
- Montana Workforce Services Division, Veterans Services,
<http://wsd.dli.mt.gov/veterans/vet1.asp>
- Montana Veterans Affairs, <http://montanadma.org/montana-veterans-affairs>

Questions

